IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12691 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

BHAVANABEN R RAJYAGURU - Respondent(s)

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Appearance :

GOVERNMENT PLEADER for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 14/10/2005

CAV JUDGMENT

1.By filing this petition, the petitioner – State of Gujarat has challenged the judgment and award dated 26.4.2000 passed by the Judge, Labour Court, Amreli by

which the Labour Court has quashed and set aside the order of termination and the petitioner is directed to reinstate the respondent in service to his original post with continuity of service and without back wages.

2. Being aggrieved and dissatisfied by the said judgment and award dated 26.4.2000 passed by the Judge, Labour Court, Amreli in Reference Case No.97 of 1998 (new), the petitioner has preferred the present petition under Article 226/227 of the Constitution of India.

3. Heard the learned A.G.P., Ms.Rita Chandarana for the petitioner. None appears on behalf of the respondent though served. I have also perused the material placed on record of this petition.

4. Having heard the learned A.G.P., for the petitioner and having perused the material on record, it appears that this Court (Coram: A.R.Dave,J) had admitted the matter on 02.03.2001 and had stayed the operation and implementation of the impugned judgment and award.

5. It can be seen from the record that the respondent was working as Cook with the petitioner from 29.06.1984 and her services were came to be terminated from 03.03.1986. Ultimately, the respondent raised the industrial dispute which was numbered as Reference Case No. 97 of 1998 (new). After hearing the learned

advocates for the parties and appreciating the evidence on record, the Judge, Labour Court, Amreli, by judgment and award dated 26.4.2000 directed the petitioner to reinstate the respondent on her original post with continuity of service and without back wages by quashing and setting aside the termination order. As stated above, the said judgment and award dated 26.4.2000 had been stayed by this Court as back as on 02.03.2001.

6. The Labour Court has come to the conclusion that there is a breach of the provisions of Sections 25-F, 25-G and 25-H of the Industrial Disputes Act, 1947 (“the Act” for short). It is required to be noted that since the respondent was entitled to the protection of Sections 25-F, 25-G and 25-H of the Act, the said protection could not be denied to her on the ground that she was working on ad hoc basis. It is not the case of the petitioner that while terminating the services of the respondent, the provisions of Sections 25-F, 25-G and 25-H of the Act have been complied with and in that view of the matter, the termination of the services of the respondent cannot be upheld and has to be set aside. It is pertinent to note here that the services of the respondent were terminated way back in

1986 and till date 19 years have elapsed. Under the circumstances, I am not inclined to direct reinstatement of the respondent but considering the facts and circumstances of the case, the petitioner is directed to pay the consolidated sum of Rs.25,000/- (Rupees twenty five thousand only) to the respondent in lieu of reinstatement. It is clarified that this amount is being paid by way of full and final settlement of all the claims of the respondent. The said amount shall be paid within two months from today.

7. Under the circumstances, the impugned judgment and award dated 26.4.2000 passed by the Judge, Labour Court, Amreli in Reference Case No. 97 of 1998 is quashed and set aside, subject to the aforesaid directions. This petition is disposed of accordingly. Rule discharged.

(Sharad D.Dave,J)

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